# "REFORM IN INVESTIGATION PROCESS UNDER INDIAN CRIMINAL JUSTICE SYSTEM: AN ANALYTICAL STUDY"

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# TITLE: - "REFORM IN INVESTIGATION PROCESS UNDER INDIAN CRIMINAL JUSTICE SYSTEM: AN ANALYTICAL STUDY"

## 1. INTRODUCTION

*"Truth does not pay homage to any society ancient or modern, but society has to pay homage to truth or perish."* - Swami Vivekananda.

Disobedience of the law may be termed a crime. But disobedience of all law is not a crime, for an act done in breach of the law of contract, personal law, or civil law may not be a crime unless such breach is declared a crime by some law. The criminal justice system in this country is at a crossroads. The number of crimes committed is increasing in big cities and towns due to rapid urbanization. The phenomenal rise in crimes is a matter of concern. Frequently occurring thefts, robberies, murders, rape, and smuggling create insecurity in society.

### 1.1 MEANING OF INVESTIGATION

According to Section 2(h), Code of Criminal Procedure, 1973. The investigation includes all the proceedings under the Code of Criminal Procedure for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate on this behalf. The investigation starts after the police officer receives information regarding an offense and it consists of the following steps: Proceeding to the spot; Ascertainment of the facts and the circumstances of the case; Discovery and arrest of the suspected offender; Collection of evidence relating to the commission of the offence which may consist of: (i) The examination of various people including the accused and recording their statements, if the investigating officer thinks it necessary; (ii) The search of places, seizure of things considered necessary for the investigation and to be produced at the time of the trial; and Formulation of opinion as to whether it is a fit case for the accused to be sent up for trial and, if so, taking steps to file charge-sheet.[1]

The role of police in our criminal justice system is to prevent, detect, and investigate crime and apprehend offenders, sometimes called law enforcement. The police carry out this role within the constraints of constitutional and statutory requirements and with the overriding principle that their work is done for the protection and welfare of the citizenry. The role of the police is a scientific method of investigation, the avoidance of third-degree methods, efficiency in professionalism, and the act of a protector and savior of the community. The basic role of the police is as a law enforcement agency that renders service to the law. A welfare state is to be a police state only to protect law and order, which is the state's main function. This function is carried out with the help of the police. This is regarded as a sovereign function even today. This function by the

[1] K.M. Nanavati v. State of Maharashtra, AIR 1962 SC 605 (India).

state is considered the most fundamental. The state has to implement many measures for the benefit and welfare of the people.

The criminal law system seeks to balance individual freedoms and interests with social or collective interests, thereby ensuring peace and tranquility. Within the given theoretical and operational paradigm of the criminal law system, the criminal justice delivery system shows concern for the freedom, liberty, and life of those who violate criminal law and the victims thereof. In all criminal prosecutions, the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, etc.

## 1.2 CONCEPTULAZATION OF INVESTIGATION

The object of investigating a crime is to detect and arrest its perpetrator and collect enough legal evidence to bring him to justice. Evidence is broadly of two kinds: direct and circumstantial. Direct evidence is the testimony of persons who have perceived or participated in the crime. Circumstantial evidence concerns facts associated with the crime that lead to an inference or presumption regarding the accused's guilt. A criminal investigation is a search for truth. Truth is determined by gathering all the facts concerning a given incident through systematic, planned operations designed to resolve all pertinent issues. It is said, "As in every democratic, civilized society, our Criminal Justice System is expected to provide the maximum sense of security to the people at large by dealing with crimes and criminals effectively, quickly, and legally. More specifically, the aim is to reduce criminality by ensuring maximum detection of reported crimes, the conviction of the accused persons without delay, awarding appropriate punishments to the convicted to meet the ends of justice and to prevent recidivism". The police officer proceeds to the crime scene and investigates the facts of the case. Police investigation mainly includes Examination of the scene of the crime, Examination of witnesses and suspects, Recording of statements, Conducting searches, Seizing property, Collecting fingerprints, footprints, and other scientific evidence, Consulting records, and making entries in the prescribed records, like case diary, daily diary, station diary, etc., Making arrests and detentions, Interrogation of the accused.

## 1.3 PROCESS OF INVESTIGATION

There are various provisions in the Code of Criminal Procedure which empower the police with very vast discretion such as provisions dealing with the procedure to be adopted for the investigation of offences under the Indian Penal Code and other laws,[2] Provisions mentioning the Powers of the Superior Officers of the police to investigate an offence,[3] Provisions of arrest during

[2] Section 4(1) and 4(2), The Code of Criminal Procedure, 1973.
[3] Section 36, The Code of Criminal Procedure, 1973.

investigation,[4] Provisions as to proclamation and attachment,[5] Provisions as to search and seizure during investigation,[6] Investigation of a cognizable offence,[7] Investigation of a non-cognizable offence,[8] Police officer's power to investigate a cognizable offence,[9] procedure for investigation,[10] Submission of report of investigation through superior officer of police and transmission of such report to the Magistrate,[11] Police officer's power to require attendance of witness for the purpose of investigation,[12] Examination of witness during investigation,[13] Statements recorded by Investigating Officer during investigation in evidence during a trial,[14] Provision as to no inducement to be offered by a Police Officer during investigation,[15] Recording of confession of accused and statements of witnesses,[16] Issue of search warrant for the purposes of investigation, Procedure when investigation cannot be completed in twenty four hours,[17] Report of investigation by subordinate police officer,[18] Release of accused when evidence deficient,[19] Provision of sending the case to the magistrate when evidence is sufficient,[20] Diary of proceedings of investigation,[21] Submission of charge sheet of final report on completion of investigation,[22] Provision for further investigation,[23]. But it is pertinent to mention that the police while being the custodians of law and maintainers of order in the society themselves violate the law which they are expected to follow.

Section 23 of the Police Act, of 1861[24] provides for the various duties of police officers. It states that it shall be the duty of every police officer to collect and communicate intelligence affecting the public nuisance, to detect and bring offenders to justice, and to apprehend all persons he is legally authorized to apprehend and for whose apprehension sufficient ground exists.

Police are the law enforcement agency whose fundamental duty is to serve mankind and safeguard people's lives and property, to protect the innocent against deception, the weak against oppression or intimidation, peaceful against violence and disorder, and to respect the constitutional

[4] Section 41 to 60, The Code of Criminal Procedure, 1973.
[5] Section 82 to 90, The Code of Criminal Procedure, 1973.
[6] Section 91 to 105, The Code of Criminal Procedure, 1973.
[7] Section 154, The Code of Criminal Procedure, 1973.
[8] Section 155, The Code of Criminal Procedure, 1973.
[9] Section 156, The Code of Criminal Procedure, 1973.
[10] Section 157, The Code of Criminal Procedure, 1973.
[11] Section 158, The Code of Criminal Procedure, 1973.
[12] Section 160, The Code of Criminal Procedure, 1973.
[13] Section 161, The Code of Criminal Procedure, 1973.
[14] Section 162, The Code of Criminal Procedure, 1973.
[15] Section 163, The Code of Criminal Procedure, 1973.
[16] Section 164, The Code of Criminal Procedure, 1973.
[17] Section 165, The Code of Criminal Procedure, 1973.
[18] Section 168, The Code of Criminal Procedure, 1973.
[19] Section 169, The Code of Criminal Procedure, 1973.
[20] Section 170, The Code of Criminal Procedure, 1973.
[21] Sections 171,172, The Code of Criminal Procedure, 1973.
[22] Section 173, The Code of Criminal Procedure, 1973.
[23] Section 173(8) , The Code of Criminal Procedure, 1973.
[24] The Section 23 of the Police Act, 1861.

rights of all men to liberty, equality, and justice. Custodial Death has become a common phenomenon. Accused are beaten and starved during their investigation process in police custody.

There is a huge gap between the crime rate and the actions taken by the police, and also, the FIRs are lodged very late by the police officers, which delays justice for the victim. They usually go for third-degree torture for the accused, even in cases where it is not that required, which is torture to the accused. Police officers are usually seen taking advantage of their power while discharging their official duties. They indulge in various unscrupulous activities.

These inappropriate actions or the faulty use of their power can be termed as police misconduct. It leads to an obstruction in the justice system of the country. The middle and the elite class of the society blame the politicians for not letting the police play the rightful roles in the society whereas the lower class are often intimated by the police officers and are in constant threat of their authority.

## 1.4 ROLE OF RELEVANT JUDICIAL PRONOUNCEMENTS

In the case of **Santosh Kumar Singh vs. State through CBI**[25] "*Though I know he is the man who committed the crime, I acquit him, giving him the benefit of doubt*". This shocking statement of the Additional Sessions Judge, G.P. Thareja in **Ms. Priyadarshini Mattoo case**, while acquitting the accused reflects the deplorable state of our criminal justice system. It is said, "Power corrupts and absolute power corrupts absolutely." It is ironical that the Judiciary itself being one of the most potent organs of the government is subdued by the rich and persuasive lot of the society. Sadly, almost all the constitutional safeguards and restraints on judicial misconduct are now dead.

The hon'ble Supreme Court while delivering a judgment in a leading case **H.N. Rishbud vs State of Delhi**[26] elaborately described the procedure of making an investigation. Yet, the system is still lagging behind in terms of efficiency and is creating a loophole in delivering justice to the society at large. Improper investigations by the police officials helps in giving the accused, the benefit of reasonable doubt and leads to the failure of the prosecution case, which ultimately leads to denial of justice to the victims of the crime. Police system, being the first line of defence in the country is expected to be efficient, potent and sound. But what is happening in today's scenario is contradictory to the expectations. Various myriad deficiencies are found in the existing police system

In the case of **Kishore Singh V State of Rajasthan**[27], the Supreme Court was deeply concerned with the various atrocities committed by the police officers. The Court had stated that:

[25] Santosh Kumar Singh vs. State through CBI, (2010) 9 SCC 747 (India).
[26] H.N. Rishbud vs State of Delhi ,1955 AIR 196, 1955 SCR (1) 1150 (India).
[27] Kishore Singh V State of Rajasthan, 1981 AIR 625 (India).

"No police lifestyle, which relies more on fists than wits and on torture more than on culture, can control crime because it means boomeranging on ends and refueling the vice that it seeks to extinguish."

In the case of **D K Basu V State of West Bengal**[28], there were various guidelines put forth for the arrest and detention by the police officers. They were:

- The police officers should bear visible, correct and clear name tags along with their designations during investigation and detention.
- During arrest, the police officer shall prepare a memo of arrest, which at least one witness shall attest.
- The person arrested or detained by the police should have at least one friend or relative or a person having interest in his welfare, informed about his arrest or detention.
- The person detained should be made aware of his rights to have someone informed about his arrest or detention.
- After detention or arrest, an entry shall be made in the diary regarding the arrest of the person which shall even disclose the name of the friend or family member informed along with the details of the police officers in whose custody the arrestee is.
- Inspection memo should be signed by both the police officer and the arrestee and a copy of the same should be provided to the arrestee.
- The copies of all the required documents should be sent to the Magistrate for his record.
- The arrestee should be provided with a medical examination every 48 hours of his detention by the approved doctors who are the ones appointed by the Director of health services of the concerned State or Union Territory.
- The arrestee may be permitted to meet his lawyer during his interrogation for some time.
- The police officer causing the arrest or the detention shall send all the information regarding the same to the police control room of the district or state headquarters within 12 hours of affecting the arrest.

[28] D K Basu V State of West Bengal,1997 (1) SCC 416 (India).

## 1.5 CONSTITUTIONAL RELEVANCY OF DIFFERENT ASPECTS OF INVESTIGATION

The Constitution provides the following constitutional rights to a person in police custody- Constitutional Guarantee of the Rights against Ex-post Facto Laws,[29] Right of an Accused against Double Jeopardy,[30] Right of an Accused against Self-incrimination,[31] Right of Silence of a Person in Police Custody,[32] Right against Intrusion in privacy,[33] Right to know grounds of Arrest,[34] Right to Counsel of an Accused Person[35], Right to Legal Aid,[36] Right against Illegal Detention[37].

Police have great discretion in investigative matters. Through training and experience, they learn that informal discussion may best handle certain crimes. Some reported crimes are investigated vigorously and swiftly; others are investigated summarily or not. These investigative decisions are based on local enforcement policy, which, in turn, is derived from a range of sources, including available police resources and the relative seriousness of different crimes as viewed by the police department, and the courts reflect the opinions and attitudes of the citizenry in that jurisdiction regarding the relative seriousness of different crimes. The criminal justice system, after all, is founded on the concept that the criminal law should appropriately punish those who violate prescribed on the concept that the criminal law should appropriately punish those who violate prescribed standards of conduct.

The police have to secure to every individual citizen a natural and effortless sense of freedom and security, irrespective of his faith or political persuasion, for without it, the process of national integration can never be achieved.[38]

The investigation and the criminal justice system have remained the same for the last 140 years. Police consider themselves as the rulers and guardians of the State, and no difference has been observed in their behavioral aspect for a long time. In India, most of the bureaucrats engage in notorious activities that go undaunted by the police officers because of the practice of bribery and influence.

While there are numerous provisions enacted under the Constitution of India and other laws, most of them remain unimplemented or not properly enforced. The poor section of the

[29] Article 20 (1) Constitution of India.
[30] Article 20(2) Constitution of India.
[31] Article 20(3) Constitution of India.
[32] Section 161(2) Cr.P.C.1973 and Article 20(3) Constitution of India
[33] Article 21 Constitution of India.
[34] Article 22(1) Constitution of India and Section 50(1), 50(2) Cr.P.C.
[35] Article 22(1) Constitution of India and Section 303 Cr.P.C.
[36] Article 21 read with Article 39A Constitution of India.
[37] Section 56 and 57 Cr.P.C. and Article 22(2) Constitution of India.
[38] Dr. Deepa Singh, Human Rights And Police Predicament p67 (The Bright Law House, Delhi, 2002).

society is the ones who are solely the victims of custodial crimes or police atrocities. They see police as agents of oppression and not as the symbol of protection.

The criminal justice system and the atrocities of the police require instantaneous modification in order to establish efficient system of delivering justice and compensating the victim. More scientific and efficient techniques should be brought in the system in order to establish guilt in a better manner. Forensic techniques should be made more reliable and its use should be made more in the system.

Overall, it is high time that India needs to mend its ways of criminal justice system and its investigating techniques and systems in order to deliver justice with utmost efficiency and to compensate the victim as soon as possible.

### 1.5.1 SCIENTIFIC CONSTITUALITY

Law has considered the importance of speedy investigation, and, for this purpose, either by implication or by express provisions, provides direction to investigating agencies for accomplishing the work speedily. Delayed investigation frustrates its very objective; criminal elements succeed in destroying evidence and terrorize witnesses ultimately, by which criminality and crime rate increase, the deterrent effect of criminal law is lessened, the public interest is affected, and justice to the victim and accused is badly affected.[39] A forensic scientist has a crucial responsibility and duty to perform careful examination without getting any evidence tampered with or contaminated. To perform such an examination, they undergo various methods and techniques to come up with appropriate results. A few such incidents are discussed as Forensic science is the field of study in which scientific investigation processes are used in lawful activities. It is the physical evidence that is found at the crime spot. Forensic investigations help resolve the case by using scientific techniques such as fingerprint, DNA analysis, post-mortem, and blueprinting of blood. The excellent use of different branches (medicines, biology, pharmacy, chemistry, and physics) of forensic science investigations can be utilized to understand the reason behind the death or cause of crime can be identified. However, despite several benefits of forensic science investigations, its application in the Indian Legal scenario remains limited. The main reason behind it is that Article 20(3) of the Indian Constitution specifies that any individual who is found to be accused cannot be bound to give self-incriminating evidence against himself/herself.

The article was introduced to protect the individual from mental harassment that he/she might face during the police trial. It was also introduced to eliminate the malpractice of the police from beating and harassing the accused to become a witness and close the case forcibly. Thus, when forensic investigation, such as DNA analysis and fingerprint testing, is considered, it questions the authenticity of the provisions laid under Article 20(3). Forcing the accused to give fingerprints or perform DNA analysis is counterfeiting the provisions provided by Article 20(3) as

[39]JANMEJAY SINGH AND DR. TARU MISHRA, *Police and Criminal Justice System: A Critical Analysis*. International Journal of Law Management & Humanities, (2020). [ISSN 2581-5369]

the accused presents evidence against him. However, in the case of **State of Bombay vs. Kathi Kalu Oghad and Others** on 4 August 1961[40] , the court summoned that asking for anybody's evidence samples such as fingerprints, semen, blood, or hair does not infringe the provisions that are provided under Article 20 (3).[41]

## 1.6 LOOPHOLE AND MISUSE OF POWER:

- Only 16 out of 100 people booked for a criminal offense are finally convicted in India. The inefficiency of the criminal justice system in India, which consists of the police, prosecutors, and Judges, can be assessed by the low conviction rate.
- The main problem with which our criminal justice administration system is suffering is the adoption of scientific techniques by criminals for committing crimes.
- Conventional methods of investigation have various demerits, due to which many criminals are acquitted without proper evidence.
- The investigation and the criminal justice system have remained static for various years.
- Misuse of power by the police is one of the lacunas as police consider themselves as the rulers and guardians of the State, and no difference has been observed in their behavioral aspect for a long time.
- Inhumane techniques have often been used to torture people in police custody despite provisions of the Indian Penal Code prohibiting the same.
- One common form of police corruption is accepting monetary bribes in exchange for not reporting organized drug or other illegal activities. The police officers even willingly indulge themselves in organized crimes.
- **Prakash Singh v/s Union of India,** (in the investigation that the CCTV footage was tampered.) The Supreme Court after looking into the matter of the misuse of power by the police and reports from various commissions, directed to establish an authority named the Police Complain Authority in all the states of India.
- The court can't issue directions to investigate the case from a particular angle or by a particular agency.

[40] State of Bombay vs. Kathi Kalu Oghad and Others, 1961 AIR 1808, 1962 SCR (3) 10 (India).
[41] INDIA CONST. art1, cl 3, No person accused of any offense shall be compelled to be a witness against himself

## 2. LITERATURE REVIEW

### 2.1. BOOKS

**(i)** **Dalbir Bharti** in his book '**Police and People Role and Responsibilities**," mentions the evolution of police, the functions of police, the powers and obligations of police, the rights and duties of people, and people's participation in policing in its five chapters, respectively. The author has attempted this book to urge the police and the people to realize their roles and responsibilities and help each other establish a peaceful and just society in India. While dealing with various cases concerning the rights of the people and the powers of the police, the book has highlighted numerous Supreme Court and High Court landmark judgments mentioning detailed guidelines and requirements to be followed by the police.[42]

**(ii)** **M.P. Jain**, in his book on **Constitutional law**, has given a comprehensive account of the "right to silence" provided under Article 20(3) and the "right to privacy" as an essential facet of Article 21. The book, however, needs to explain the tension between the three techniques in the study and the rights.

**(iii)** **Sarita Jand, "Forensic Science and Law," 1stEdn., Allahabad: New Era Law Publications, (2017)** The book contains aspects regarding forensic science and law where the comparative study was made with other disciplines. The origin and development of forensic science in India were discussed, and its setup was provided. The concepts of crime investigation and prosecution compared to forensic science were discussed. The book also highlights the administration of justice and the relationship between law and forensic science. There is a discussion about the Law of Evidence. The author gives the scope of forensic science. Scientific techniques of identification, fingerprinting, cyber-crimes, computer crimes, frauds, software piracy, hacking biometrics, internet, rights of the accused in the criminal justice system, etc., are other highlighted areas of the book.

**(iv)** **R.V. Kelkar, Lectures on Criminal Procedure (Eastern Book Company, Lucknow)** In his book "The Lectures on Criminal Procedure", the author describes various provisions relating to the role of police in investigations, search and seizure, summoning, and the role of police in trials. It specifically describes the role of the police according to the Code of Criminal Procedure. It mentions that -The Police force is an instrument for the prevention and detection of crime. Every State Government established and enrolled it under the Police Act of 1861 or a State enactment replacing

[42] Dalbir Bharti, Police and People Role and Responsibilities (A.P.H. Publishing Corporation, New Delhi, 1st Edition, 2006).

the Act of 1861. In each State, the Director General of Police is in charge of the overall administration of the State police force. However, the administration of police in every district rest in the District Superintendent of Police under the general control and direction of the District Magistrate, who is usually the district's Collector. The scheme of the book has been divided into lectures in which an effort has been made to focus attention on the basic principles of criminal procedure and the interaction of the different statutory provisions through which these principles operate in practice. The subject matter has been arranged topic-wise, and the analysis of the relevant sections in the light of judicial decisions has been done extensively.

## 2.2. JOURNALS AND ARTICLES

**(i)** **Razdha Parveen (2017)** states that the twenty-first century of innovation worldwide is reshaping the criminal justice system and policing at an extraordinary rate. The most recent innovations make practical errands faster, more proficient, and more utilitarian and improve the impression of police as cutting-edge crime warriors. From society's point of view, the best and most helpful undertaking that law enforcement officers can complete is crime anticipation, for example, observation, crime investigation, and the guilty party. Police observation is one activity legitimized by its possible impact on crime counteraction. New mechanical advancements have been created to forestall crime and improve the performance of the police. In India, despite the appropriation of apparently advanced advances and approaches, police investigational work remains generally low-tech. Changes in both the hard and delicate innovation of policing have all the earmarks of transforming nearby, state, and federal policing divisions in various key manners; however, a few examinations have brought up issues about what amount has genuinely changed. Crime is expanding step by step with the expansion in the multifaceted nature of civilization. It needs a perfectly innovative up-degree to forestall crime and shield individuals of the nation. In this setting, the current paper intends to explain how and why the Indian policing system is falling behind in innovative headway and delivering wanted outcomes.[43]

**(ii)** **Anita Yadav (2013)** state that a reasonable technique is the bedrock of the criminal justice system. The object of the criminal justice system is to deliver open justice, rebuff the criminal, and see that the preliminary is finished quickly before the observer's memory becomes dull. In any case, it is a matter of genuine worry that the administration of the criminal justice system in India is falling apart step by step. Thus, there is a critical need for new hope to audit the whole criminal justice system.

[43] Razdha Parveen (2017) Policing in India: Technology and Crime Prevention, SSHJ 2017, 2, 132-143

Extraordinarily, in examining the crime by police and court procedures, the courts ought to consistently attempt to keep up the open confidence of the individuals in the administration of justice by guaranteeing the idea of human rights in the administration of Criminal justice. Accordingly, the push of the Paper is to comprehend the administration of the criminal justice system and its reconstruction since this is the main manner by which the confidence of individuals in the standard of law can be upheld.[44]

**(iii)** **R. Deb, "Police Investigation: A Review," JILI (1997)** The author of this article has dealt with various aspects of the police investigation. The author says the police officer must be fair to find the truth through an honest and straightforward investigation. Police should act as an agent of law, not a party in power. There must be a separation of law police from order police. The author also dealt with the aspects of malpractices in police investigations. In his suggestion, the author suggested a need to change the syllabus and training methodology of police and law students.

## 3. NOTEWORTHY CONTRIBUTION

**(i)** **The Malimath Committee,**[45] appointed by the Ministry of Home Affairs, Government of India, in November 2000, examined the existing framework of criminal jurisprudence and the related constitutional aspect. The Committee noted two significant problems that the criminal justice system faces today: colossal pendency, low conviction rate, and disposal rate of criminal cases and severe offenses. It suggested reforms to improve the "criminal justice system" of India, including the introduction of forensic science methods from the beginning of the investigation process. However, much literature about their use in the investigation, prosecution, and trial has yet to exist.

**(ii)** **The Madhava Menon Committee**,[46] was appointed by the Ministry of Home Affairs, Government of India, in May 2006 to draft a "National Policy on Criminal Justice." The Committee submitted its Report in July 2007, observing that science and technology can aid in solving crime more efficiently. The Committee expressed concern about "the lack of infrastructure, personnel and resources" because the criminal justice system cannot fully utilize science and technology in criminal investigation. The Committee suggested that the Central and State Governments cooperate to "develop

[44] Yadav, Anita. (2013). "Criminal Justice Reform in India: Need of the Hour" published in Criminal Law Journal, Vol. 119, Part 1358, page no. 29-32. Criminal Law Journal, 119. 29-32 (2013).
[45] Committee on Reforms of Criminal Justice System Government of India, Ministry of Home Affairs
[46]The Madhava Menon Committee, (Dec. 15 2023, 10:04 PM), https://www.mha.gov.in/sites/default/files/2022-08/DraftPolicyPaperAug%5B1%5D.pdf

FSLs, update the relevancy and admissibility of scientific evidence, and modernize the Criminal justice system with the use of information and community technology." The Committee has further suggested that the governments must provide adequate resources and an effective legal-administrative framework to enable the criminal justice system to use scientific investigation and evidence. The Committee also emphasized the need to strike a balance between the demands of society on the one hand and constitutional guarantees of liberty and freedom on the other.

**(iii)** **Prakash Singh & Ors. Vs U.O.I & Ors.**[47]provides a holistic approach wherein the Supreme Court gave directions to the State Governments to constitute a State Security Commission (SSC) to ensure that there is no undue influence by the governments in the police investigations.

## 4. RESEARCH PROBLEM

The criminal investigation is one of the cornerstones of the criminal justice system and lays a strong foundation for the fair trial and justice delivery system.

1. The study and in-depth research on the present topic involve the operational problem of the criminal investigation, which involves the police, the investigative agencies, the scientific agencies, the prosecution and defendant, and to a very limited extent, the judiciary.

2. The Investigation involves the collection of evidence and its timely completion. Lacuna and limitations in investigation destroy the essentiality of the evidence and affect the impact on the investigation report, which reduces its applicability at the time of trial in court.

3. The rights of the victims and the culprit shall be taken care of during the investigation. In that regard, recommendations of the various commissions and guidelines of the Supreme Court shall be taken care of.

4. The present study on the topic revolves around the lacunas and challenges present in the criminal investigation and suggestions to tackle those shortcomings to achieve the ultimate aim of serving justice. Further study also involves analysis of the latest criminal laws (Bhartiya Nagarik Suraksha Sanhita 2023 and Bhartiya Sakshya Adhiniyam 2023) with existing criminal laws (The Code of Criminal Procedure, 1973 and Indian Evidence Act, 1872.)

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[47] Prakash Singh & Ors. Vs U.O.I & Ors , Writ Petition (civil) 310 of 1996 (India).

## 5. HYPOTHESIS

The researcher has formulated the following hypothesis:

1. The investigation process in India lacks at various level because of absence of proper training, non-adoption of new tools and methods as well as arbitrary and discriminatory use of power.

2. Adoption of new criminal laws gives a ray of hope, but there is a need for sensitization in order to conduct fair, accurate, and time-bound investigation and to achieve justice in line with fundamental rights.

## 6. OBJECTIVES

The main objectives of the proposed research work are the following:

1. The proposed research work analyses the current investigation procedure and to find out lacunas in the criminal investigation to reform it.
2. To identify the reasons for the inadequate use of forensic science in the criminal justice system and to suggest ways for improved utilization of existing resources to bring about qualitative improvement in the collection and analysis of scientific evidence.
3. To analyze the reports of different commissions and committees and their recommendations with respect to use of force by the police for protecting human rights while conducting investigation as well as to reform the investigation process.
4. To do a quantitative and qualitative analysis of the Supreme Court and High Court judgments for using the modern techniques in collection of evidences.
5. Enactment of new criminal laws is a very welcome decision; the proposed research work analyzes the provisions of the new criminal laws and their efficacy and effect with respect to time bond efficient investigation to achieve the goal of just and fair investigation.

## 7. RESEARCH METHODOLOGY

The research work will be based on doctrinal as well as empirical methods. As part of doctrinal methods, various concepts relating to criminal investigation will be defined, examined, and analyzed using secondary sources, bare acts books, journals, e-resources, law commissions and articles. The legal provisions are explained using books, legislation, law commission reports, and various legal and science journal articles. The empirical research method will gather primary data through a questionnaire and schedule. Primary data will be collected through the questionnaire and schedule method for the present research work. In contrast, the secondary data sources include

legal provisions, case laws, reports etc. for which books, legislation, law commission reports, and various legal and science journal articles will be referred.

- **Selection of the States:**

The following States i.e., Uttar Pradesh, and Madhya Pradesh, have been shortlisted for collection of data[48]. The percentage of crimes recorded in Uttar Pradesh is 10.9,and in Madhya Pradesh is 7.6, out of crimes committed in India. The mentioned States have been selected using the Convenience Sampling Method.

From Madhya Pradesh, two districts are selected: Sagar and Shahdol. Sagar has a higher crime rate in Madhya Pradesh than Shahdol. Similarly, two districts from Uttar Pradesh, Varanasi and Chandauli, are selected.

## A. SAMPLE FOR THE STUDY

Random data will be gathered from different officials and individuals for research work.

## B. SIZE OF DATA SAMPLE:

| Sl. No. | Participants involved in the research work | Number of Participants |
|---|---|---|
| 1. | Police | 72 |
| 2. | Advocates | 28 |
| 3. | Judges | 28 |
| 4. | Academicians | 28 |
| 5. | Scholars | 28 |
| 6. | Victims | 28 |
| 7. | Accused | 28 |
| | Total Participants | 240 |

[48] National Crimes Record Bureau,(11 Feb,2024, 02:54 PM) https://ncrb.gov.in/crime-in-india-additional-table?year=2022&category=

INDIA
UTTAR PRADESH
BIHAR
MADHYA PRADESH
1
2
3
4
MADHYA PRADESH
1. SAGAR
2. SHAHDOL
UTTAR PRADESH
3. VARANASI
4. CHANDAULI

## C. TOOLS USED IN THE COLLECTION OF DATA

The tools used for data collection will be primary and will rely on secondary sources for the study of data.

### a) QUESTIONNAIRE

The questionnaire which will be divided into three sets:
Set 1 for Police, Advocates and Judges,
Set 2 for Academicians and Scholars,
Set 3 for Victims and Accused.

### b) SCHEDULE

It is similar to the questionnaire in which the researcher presents the questionnaire in person to the respondent and is filled by the researcher.

## 8. EXPECTED OUTCOMES

**Criminal Profiling:** Psychological and behavioral profiling combined with data analysis can assist investigators in developing profiles of potential suspects, narrowing down the list of suspects and focusing resources more effectively.

**Reduced Human Bias:** Scientific technology can reduce the influence of human bias in the investigation process, leading to more objective and fair outcomes.

**Improved Evidence Collection:** Scientific technology, such as DNA analysis, fingerprint analysis, and digital forensics, allows investigators to collect and preserve crucial evidence more effectively. This can lead to a stronger case against the suspect and increase the chances of obtaining a conviction.

**Training and Resources:** Improve the training of law enforcement officers and investigators to ensure they have a thorough understanding of constitutional rights, proper evidence-collection techniques, and unbiased policing. Adequate financial and technological resources should be allocated to support investigations.

**Transparency and Accountability:** Promote transparency by requiring law enforcement agencies to release relevant information to the public within legal and ethical bounds to build trust and ensure accountability. Implement independent oversight mechanisms to investigate complaints against law enforcement and hold them accountable for any misconduct.

## 9. TENTATIVE CHAPTERIZATION

## CHAPTER 1- INTRODUCTION

1.1. Meaning, Scope and Importance of Investigation

1.2. Investigation in the Indian Criminal Justice System

1.3. Statement of problem

1.4. Hypothesis

1.5. Objectives

1.6. Research Questions

1.7. Review of literature

1.8. Methodology

1.8.1. Sample for the study

1.8.2. Size of sample

1.8.3. Tools and Technique

## CHAPTER 2- CONCEPTUAL ANALYSIS OF INVESTIGATION AND THE ROLE OF POLICE IN THE INVESTIGATION PROCESS

2.1 Analysis of the Investigation Process in the Indian Criminal Justice System

2.2 Provision related to Investigation under BNSS/ Cr.P.C and Special Statutes

2.3 Power to initiate an investigation

2.4 When to start an investigation

2.5 Adversarial and Inquisitorial Criminal Justice System

## CHAPTER 3- HINDRANCES AND PROBLEMS IN CONDUCTING EFFECTIVE INVESTIGATION AND STEPS TAKEN TO REFORM THE INVESTIGATION PROCESS

3.1 Loopholes and Lacunas in the Investigation Process

3.1.1 Delay in Investigation

3.1.2 Conventional Method of Investigation

3.1.3 Non-Adoption of Scientific Techniques

3.1.4 Misuse of Power by Police

3.1.5 Inadequate Training
3.1.6 Witness Intimidation
3.2 Steps taken to reform
3.2.1 The Information Technology Act, 2000
3.2.2 The Code of Criminal Procedure (Amendment) Act, 2005
3.2.3 The Criminal Procedure (Amendment) act, 2006
3.2.4 The Criminal Law (Amendment) Act, 2013
3.2.5 The Criminal Law (Amendment) Act, 2018
3.2.6 Bharatiya Nagarik Suraksha Sanhita, 2023
3.2.7 Special Statutes:
3.2.7.1 The Unkawful Activities (Prevention) Act, 1967(UAPA)
3.2.7.2 The Prevention of Corruption Act, 1988
3.2.7.3 The Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989
3.2.7.4 The Prevention of Money Laundering Act, 2002(PMLA)
3.2.7.5 The Protection of Children from Sexual Offences Act, 2012(POCSO)
3.2.7.6 The Sexual Harassment Of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
3.2.7.7 The Juvenile Justice (care and Protection of Children) Act, 2015
3.2.7.8 The Criminal Procedure (identification) Act, 2022
3.3 Steps Taken by Judiciary
3.3.1 Speedy investigation
3.3.2 Time-bound investigation
3.3.3 Scientific use during the investigation

**CHAPTER 4- CONSTITUTIONAL VALIDITY OF MODERN INVESTIGATION TECHNIQUES**

4.1 Right to Fair Investigation and Fundamental Right
4.2 Constitutional validity of Polygraph, Brain Mapping, Narco test and other Scientific Techniques

## CHAPTER 5- POLICE ACCOUNTABILITY AND ROLE OF JUDICIARY & PROSECUTION AT THE STAGE OF INVESTIGATION

5.1 Accountability and Transparency in Investigation

5.2 Role of Judiciary

5.3 Role of Prosecution

## CHAPTER 6- PERCEPTIONS OF INVESTIGATION PROCESS: AN EMPIRICAL ANALYSIS OF STAKEHOLDERS

6.1 Finding and Discussion

## CHAPTER 7- CONCLUSION AND SUGGESTIONS

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